



Montana Legislative History

Checklist of Bill History

Chapter: 187 Session L: 2009

Bill Number:

House Bill

195

History and Final Status Sheet

x

Introduced Bill

X

Fiscal Note

N/A

Third Reading Bill

X

Final Version of Bill

X

House

Committee:

Business and
Labor

Hearing Date(s):

[Jan. 16, 2009](#)

[Jan. 27, 2009](#) (EA)

Senate

Committee:

Business, Labor and Economic Affairs

Hearing Date(s):

[March 4, 2009](#)

[March 18, 2009](#) (EA)

Conference Committee

Hearing Date(s): n/a

Conference Committee Report:

Compiler Notes

Compiled by: sg

Date: 6/25/2024

Notes:

Bill Draft Number: LC1950

Bill Type - Number: HB 195

Short Title: Revise restaurant beer and wine license laws

Primary Sponsor: Robin Hamilton (D) HD 92

Chapter Number: 187

Bill Actions - Current Bill Progress: Became Law

Bill Action Count: 48

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	04/09/2009			
(H) Signed by Governor	04/09/2009			
(H) Transmitted to Governor	04/01/2009			
(S) Signed by President	03/31/2009			
(H) Signed by Speaker	03/31/2009			
(H) Returned from Enrolling	03/30/2009			
(C) Printed - New Version Available	03/30/2009			
(H) Sent to Enrolling	03/28/2009			
(H) 3rd Reading Passed as Amended by Senate	03/28/2009	93	1	
(H) Scheduled for 3rd Reading	03/28/2009			
(H) 2nd Reading Senate Amendments Concurred	03/27/2009	98	1	
(H) Scheduled for 2nd Reading	03/27/2009			
(S) Returned to House with Amendments	03/23/2009			
(S) 3rd Reading Concurred	03/23/2009	48	2	
(S) Scheduled for 3rd Reading	03/23/2009			
(S) 2nd Reading Concurred on Voice Vote	03/21/2009	47	0	
(S) Scheduled for 2nd Reading	03/21/2009			
(C) Printed - New Version Available	03/19/2009			
(S) Committee Report--Bill Concurred as Amended	03/19/2009			(S) Business, Labor, and Economic Affairs
(S) Committee Executive Action--Bill Concurred as Amended	03/19/2009	11	0	(S) Business, Labor, and Economic Affairs
(S) Hearing	03/04/2009			(S) Business, Labor, and Economic Affairs
(S) First Reading	02/23/2009			
(S) Referred to Committee	02/21/2009			(S) Business, Labor, and Economic Affairs
(H) Transmitted to Senate	02/02/2009			
(H) 3rd Reading Passed	01/31/2009	96	2	
(H) Scheduled for 3rd Reading	01/31/2009			
(H) 2nd Reading Passed	01/30/2009	98	2	
(H) Scheduled for 2nd Reading	01/30/2009			

(H) Committee Report--Bill Passed as Amended	01/28/2009		(H) Business and Labor
(C) Printed - New Version Available	01/27/2009		
(H) Committee Executive Action--Bill Passed as Amended	01/27/2009	17	0 (H) Business and Labor
(H) Hearing	01/16/2009		(H) Business and Labor
(H) First Reading	01/08/2009		
(H) Referred to Committee	01/08/2009		(H) Business and Labor
(C) Introduced Bill Text Available Electronically	01/07/2009		
(H) Introduced	01/07/2009		
(C) Draft Delivered to Requester	01/07/2009		
(C) Draft Ready for Delivery	01/06/2009		
(C) Draft in Assembly/Executive Director Review	01/05/2009		
(C) Draft in Final Drafter Review	01/05/2009		
(C) Bill Draft Text Available Electronically	01/05/2009		
(C) Draft in Input/Proofing	01/05/2009		
(C) Draft to Drafter - Edit Review	01/05/2009		
(C) Draft in Edit	01/05/2009		
(C) Draft in Legal Review	01/05/2009		
(C) Draft to Requester for Review	12/29/2008		
(C) Fiscal Note Probable	12/26/2008		
(C) Draft Request Received	12/26/2008		

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name Mi
Requester	Hamilton	Robin
Drafter	Petes	Greg
Primary Sponsor	Hamilton	Robin

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Alcohol and Drugs		Simple	ALC
Rule Making		Simple	RUL
Trade Regulations and Competition		Simple	TRAD

Additional Bill Information

Fiscal Note Probable: No
Preintroduction Required: N
Session Law Ch. Number: 187

DEADLINE

Category: General Bills

Transmittal Date: 02/26/2009

Return (with 2nd house amendments) Date: 04/02/2009

Section Effective Dates

Section(s) Effective Date Date Qualified

All Sections 09-APR-09

17, CHAPTER 593, LAWS OF 2005, AND SECTION 9, CHAPTER 367, LAWS OF 2007; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 17, Chapter 593, Laws of 2005, is amended to read:

"Section 17. Termination — carryforward. [This act] terminates January 1, ~~2010~~ 2015, but an unused credit under [section 7] may be carried forward for use on returns for tax years beginning before January 1, ~~2014~~ 2019, subject to use, limitations on the amount of the credit, carryforward, and recapture provisions of the credit effective on December 31, ~~2009~~ 2014."

Section 2. Section 9, Chapter 367, Laws of 2007, is amended to read:

"Section 9. Termination — carryforward. [Sections 1 through 4] terminate January 1, ~~2010~~ 2015, but an unused credit under 15-31-907 may be carried forward for use on returns for tax years beginning before January 1, ~~2014~~ 2019, subject to use, limitations on the amount of the credit, carryforward, and recapture provisions of the credit effective on December 31, ~~2009~~ 2014."

Section 3. Effective date. [This act] is effective on passage and approval.

Approved April 9, 2009

CHAPTER NO. 187

[HB 195]

AN ACT REVISING THE LAWS RELATED TO THE QUALIFICATIONS AND CONDITIONS FOR OBTAINING A RESTAURANT BEER AND WINE LICENSE; CLARIFYING THE DEFINITION OF A FULL-SERVICE RESTAURANT; ELIMINATING THE REQUIREMENT THAT AN UNSUCCESSFUL LOTTERY APPLICANT BE GIVEN A PREFERENCE IN FUTURE LOTTERIES; AMENDING SECTION 16-4-420, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 16-4-420, MCA, is amended to read:

"16-4-420. Restaurant beer and wine license. (1) The department shall issue a restaurant beer and wine license to an applicant whenever the department determines that the applicant, in addition to satisfying the requirements of this section, meets the following qualifications and conditions:

(a) ~~in the case of an individual applicant:~~

~~(i) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; and~~

~~(ii) the applicant is not under 19 years of age;~~

~~(b) in the case of a corporate applicant:~~

~~(i) in the case of a corporation listed on a national stock exchange, the corporate officers and the board of directors must meet the requirements of subsection (1)(a);~~

~~(ii) in the case of a corporation not listed on a national stock exchange, each owner of 10% or more of the outstanding stock must meet the requirements for an individual listed in subsection (1)(a); and~~

~~(iii) the corporation is authorized to do business in Montana;~~

~~(e) in the case of any other business entity, including but not limited to partnerships, including limited liability partnerships, limited partnerships, and limited liability companies, but not including any form of a trust:~~

~~(i) if the applicant consists of more than one individual, all individuals must meet the requirements of subsection (1)(a); and~~

~~(ii) if the applicant consists of more than one corporation, all corporations listed on a national stock exchange must meet the requirements of subsection (1)(b)(i) and corporations not listed on a national stock exchange must meet the requirements of subsection (1)(b)(ii); the applicant complies with the licensing criteria provided in 16-4-401 for an on-premises consumption license;~~

~~(d)(b) the applicant operates a restaurant at the location where the restaurant beer and wine license will be used or satisfies the department that:~~

~~(i) the applicant intends to open a restaurant that will meet the requirements of subsection (6) and intends to operate the restaurant so that at least 65% of the restaurant's gross income during its first year of operation is expected to be the result of the sale of food;~~

~~(ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be stated on the food bill; and~~

~~(iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the department by rule;~~

~~(e)(c) the applicant understands and acknowledges in writing on the application that this license prohibits the applicant from being licensed to conduct any gaming or gambling activity or operate any gambling machines and that if any gaming or gambling activity or machine exists at the location where the restaurant beer and wine license will be used, the activity must be discontinued or the machines must be removed before the restaurant beer and wine license takes effect; and~~

~~(f)(d) the applicant states the planned seating capacity of the restaurant, if it is to be built, or the current seating capacity if the restaurant is operating.~~

(2) (a) A restaurant that has an existing retail license for the sale of beer, wine, or any other alcoholic beverage may not be considered for a restaurant beer and wine license at the same location.

(b) (i) An on-premises retail licensee who sells the licensee's existing retail license may not apply for a license under this section for a period of 1 year from the date that license is transferred to a new purchaser.

(ii) A person, including an individual, with an ownership interest in an existing on-premises retail license that is being transferred to a new purchaser may not attain an ownership interest in a license applied for under this section for a period of 1 year from the date that the existing on-premises retail license is transferred to a new purchaser.

(3) A completed application for a license under this section and the appropriate application fee, as provided in subsection (11), must be submitted to the department. The department shall investigate the items relating to the application as described in subsections (3)(a) through (3)(d). Based on the results of the investigation and the exercise of its sound discretion, the department shall determine whether:

(a) the applicant is qualified to receive a license;

(b) the applicant's premises are suitable for the carrying on of the business;
(c) the requirements of this code and the rules promulgated by the department are complied with; and

(d) the seating capacity stated on the application is correct.

(4) An application for a beer and wine license submitted under this section is subject to the provisions of 16-4-203, 16-4-207, and 16-4-405.

(5) If a premises proposed for licensing under this section is a new or remodeled structure, then the department may issue a conditional license prior to completion of the premises based on reasonable evidence, including a statement from the applicant's architect or contractor confirming that the seating capacity stated on the application is correct, that the premises will be suitable for the carrying on of business as a bona fide restaurant, as defined in subsection (6).

(6) (a) For purposes of this section, "restaurant" means a public eating place:

(i) where individually priced meals are prepared and served for on-premises consumption;;

(ii) *At where at least 65% of the restaurant's annual gross income from the operation must be from the sale of food and not from the sale of alcoholic beverages. Each year after a license is issued, the applicant shall file with the department a statement, in a form approved by the department, attesting that at least 65% of the gross income of the restaurant during the prior year resulted from the sale of food.*

(iii) ~~The restaurant must have that has~~ a dining room, a kitchen, and the number and kinds of employees necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use as a full-service restaurant; and

(iv) ~~A full-service restaurant is a restaurant that provides that serves an evening dinner meal at least 4 days a week for at least 2 hours a day between the hours of 5 p.m. and 11 p.m. The provisions of this subsection (6)(a)(iv) and subsection (6)(b) do not apply to a restaurant for which a restaurant beer and wine license is in effect as of [the effective date of this act] or to subsequent renewals of that license.~~

(b) *The term does not mean a fast-food restaurant that, excluding any carry-out business, serves a majority of its food and drink in throw-away containers not reused in the same restaurant.*

(7) (a) ~~(i) Subject to the conditions of subsection (7)(a)(ii), a~~ A restaurant beer and wine license may be transferred, upon approval by the department, from the original applicant to a new owner of the restaurant ~~if there is no change of location, and the original owner may transfer location after the license is issued by the department to a new location, upon approval by the department.~~

~~(ii) A new owner may not transfer the license to a new location for a period of 1 year following the transfer of the license to the new only after 1 year of use by the original owner.~~

(b) A license issued under this section may be jointly owned, and the license may pass to the surviving joint tenant upon the death of the other tenant. However, the license may not be transferred to any other person or entity by operation of the laws of inheritance or succession or any other laws allowing the transfer of property upon the death of the owner in this state or in another state.

(c) An estate may, upon the sale of a restaurant that is property of the estate and with the approval of the department, transfer a restaurant beer and wine license to a new owner.

(8) (a) The department shall issue a restaurant beer and wine license to a qualified applicant:

(i) except as provided in subsection (8)(c), for a restaurant located in a quota area with a population of 5,000 persons or fewer, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(ii) for a restaurant located in a quota area with a population of 5,001 to 20,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 160% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iii) for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 100% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iv) for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105; and

(v) for a restaurant located in a quota area that is also a resort community, as the resort community is designated by the department of commerce under 7-6-1501(5), if the number of restaurant beer and wine licenses issued in the quota area that is also a resort community is equal to or less than 200% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105.

(b) In determining the number of restaurant beer and wine licenses that may be issued under this subsection (8) based on the percentage amounts described in subsections (8)(a)(i) through (8)(a)(v), the department shall round to the nearer whole number.

(c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota area under subsection (8)(a)(i), there must be a one-time adjustment of four additional licenses for that quota area.

(d) If there are more applicants than licenses available in a quota area, then the license must be awarded by lottery as provided in subsection (9).

(9) (a) When a restaurant beer and wine license becomes available by the initial issuance of licenses under this section or as the result of an increase in the population in the quota area, the nonrenewal of a restaurant beer and wine license, or the lapse or revocation of a license by the department, then the department shall advertise the availability of the license in the quota area for which it is available. If there are more applicants than number of licenses available, the license must be awarded to an applicant by a lottery.

(b) ~~Any~~ A preference must be given to an applicant who does not yet have in any quota area a restaurant beer and wine license or a retail beer license and who operates a restaurant that is in the quota area described in subsection (8) in

which the license has become available and that meets the qualifications of subsection (6) for at least 12 months prior to the filing of an application ~~must be given a preference, and any unsuccessful lottery applicants from previous selections must also be given a preference.~~ An applicant with both preferences a preference must be awarded a license before any applicant ~~with only one without a preference.~~

(c) The department shall numerically rank all applicants in the lottery. Only the successful applicants will be required to submit a completed application and a one-time required fee. An applicant's ranking may not be sold or transferred to another person or entity. The preference and an applicant's ranking apply only to the intended license advertised by the department or to the number of licenses determined under subsection (8) when there are more applicants than licenses available. The applicant's qualifications for any other restaurant beer and wine license awarded by lottery must be determined at the time of the lottery.

(d) If a successful lottery applicant does not use a license within 1 year of notification by the department of license eligibility, the applicant shall forfeit the license. The department shall refund any fees paid except the application fee and offer the license to the next eligible ranked applicant in the lottery.

(10) Under a restaurant beer and wine license, beer and wine may not be sold for off-premises consumption.

(11) An application for a restaurant beer and wine license must be accompanied by a fee equal to 20% of the initial licensing fee. If the department does not make a decision either granting or denying the license within 4 months of receipt of a complete application, the department shall pay interest on the application fee at the rate of 1% a month until a license is issued or the application is denied. Interest may not accrue during any period that the processing of an application is delayed by reason of a protest filed pursuant to 16-4-203 or 16-4-207. If the department denies an application, the application fee, plus any interest, less a processing fee established by rule, must be refunded to the applicant. Upon the issuance of a license, the licensee shall pay the balance of the initial licensing fee. The amount of the initial licensing fee is determined according to the following schedule:

(a) \$5,000 for restaurants with a stated seating capacity of 60 persons or less;

(b) \$10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or

(c) \$20,000 for restaurants with a stated seating capacity of 101 persons or more.

(12) The annual fee for a restaurant beer and wine license is \$400.

(13) If a restaurant licensed under this part increases the stated seating capacity of the licensed restaurant or if the department determines that a licensee has increased the stated seating capacity of the licensed restaurant, then the licensee shall pay to the department the difference between the fees paid at the time of filing the original application and issuance of a license and the applicable fees for the additional seating.

(14) The number of beer and wine licenses issued to restaurants with a stated seating capacity of 101 persons or more may not exceed 25% of the total licenses issued.

(15) Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a restaurant beer and wine license."

Section 2. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 3. Effective date. [This act] is effective on passage and approval.

Section 4. Applicability. [This act] applies to restaurant beer and wine licenses applied for and to lotteries conducted on or after [the effective date of this act].

Approved April 9, 2009

CHAPTER NO. 188

[HB 197]

AN ACT REVISING SIGNATURE REQUIREMENTS FOR RECALL PETITIONS; AND AMENDING SECTIONS 2-16-612 AND 2-16-614, MCA.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-16-612, MCA, is amended to read:

"2-16-612. Persons qualified to petition — penalty for false signatures. (1) A person who is a qualified elector of this state may sign a petition for recall of a state officer.

(2) A person who is a qualified elector of a district of the state from which a state-district officer is elected may sign a petition for recall of a state-district officer of that district or appointed by an officer or the officers of that election district.

(3) A person who is a qualified elector of a political subdivision of this state may sign a petition for recall of an officer of that political subdivision. ~~However, if a political subdivision is divided into election districts, a person must be a qualified elector in the election district to be eligible to sign a petition to recall an officer elected from that election district.~~

(4) A person signing any name other than the person's own to any petition or knowingly signing more than once for the recall or who is not at the time of the signing a qualified elector or a person who knowingly makes a false entry upon an affidavit required in connection with the filing of a petition for the recall of an officer is guilty of unsworn falsification or tampering with public records or information, as appropriate, and is punishable as provided in 45-7-203 or 45-7-208, as applicable."

Section 2. Section 2-16-614, MCA, is amended to read:

"2-16-614. Number of electors required for recall petition. (1) Recall petitions for elected or appointed state officers ~~shall~~ *must* contain the signatures of qualified electors equaling at least 10% of the number of persons registered to vote at the preceding state general election.

(2) A petition for the recall of a state-district officer must contain the signatures of qualified electors equaling at least 15% of the number of persons registered to vote in the last preceding election in that district.

HOUSE BILL NO. 195
INTRODUCED BY R. HAMILTON

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATED TO THE QUALIFICATIONS AND CONDITIONS FOR OBTAINING A RESTAURANT BEER AND WINE LICENSE; CLARIFYING THE DEFINITION OF A FULL-SERVICE RESTAURANT; ELIMINATING THE REQUIREMENT THAT AN UNSUCCESSFUL LOTTERY APPLICANT BE GIVEN A PREFERENCE IN FUTURE LOTTERIES; AMENDING SECTION 16-4-420, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-4-420, MCA, is amended to read:

"16-4-420. Restaurant beer and wine license. (1) The department shall issue a restaurant beer and wine license to an applicant whenever the department determines that the applicant, in addition to satisfying the requirements of this section, meets the following qualifications and conditions:

~~(a) in the case of an individual applicant:~~

~~—— (i) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; and~~

~~—— (ii) the applicant is not under 19 years of age;~~

~~(b) in the case of a corporate applicant:~~

~~—— (i) in the case of a corporation listed on a national stock exchange, the corporate officers and the board of directors must meet the requirements of subsection (1)(a);~~

~~—— (ii) in the case of a corporation not listed on a national stock exchange, each owner of 10% or more of the outstanding stock must meet the requirements for an individual listed in subsection (1)(a); and~~

~~—— (iii) the corporation is authorized to do business in Montana;~~

~~(c) in the case of any other business entity, including but not limited to partnerships, including limited liability partnerships, limited partnerships, and limited liability companies, but not including any form of a trust:~~

~~—— (i) if the applicant consists of more than one individual, all individuals must meet the requirements of subsection (1)(a); and~~

~~—— (ii) if the applicant consists of more than one corporation, all corporations listed on a national stock~~

~~exchange must meet the requirements of subsection (1)(b)(i) and corporations not listed on a national stock exchange must meet the requirements of subsection (1)(b)(ii);~~ the applicant complies with the licensing criteria provided in 16-4-401:

~~(d)~~(b) the applicant operates a restaurant at the location where the restaurant beer and wine license will be used or satisfies the department that:

(i) the applicant intends to open a restaurant that will meet the requirements of subsection (6) and intends to operate the restaurant so that at least 65% of the restaurant's gross income during its first year of operation is expected to be the result of the sale of food;

(ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be stated on the food bill; and

(iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the department by rule;

~~(e)~~(c) the applicant understands and acknowledges in writing on the application that this license prohibits the applicant from being licensed to conduct any gaming or gambling activity or operate any gambling machines and that if any gaming or gambling activity or machine exists at the location where the restaurant beer and wine license will be used, the activity must be discontinued or the machines must be removed before the restaurant beer and wine license takes effect; and

~~(f)~~(d) the applicant states the planned seating capacity of the restaurant, if it is to be built, or the current seating capacity if the restaurant is operating.

(2) (a) A restaurant that has an existing retail license for the sale of beer, wine, or any other alcoholic beverage may not be considered for a restaurant beer and wine license at the same location.

(b) (i) An on-premises retail licensee who sells the licensee's existing retail license may not apply for a license under this section for a period of 1 year from the date that license is transferred to a new purchaser.

(ii) A person, including an individual, with an ownership interest in an existing on-premises retail license that is being transferred to a new purchaser may not attain an ownership interest in a license applied for under this section for a period of 1 year from the date that the existing on-premises retail license is transferred to a new purchaser.

(3) A completed application for a license under this section and the appropriate application fee, as provided in subsection (11), must be submitted to the department. The department shall investigate the items relating to the application as described in subsections (3)(a) through (3)(d). Based on the results of the

investigation and the exercise of its sound discretion, the department shall determine whether:

- (a) the applicant is qualified to receive a license;
- (b) the applicant's premises are suitable for the carrying on of the business;
- (c) the requirements of this code and the rules promulgated by the department are complied with; and
- (d) the seating capacity stated on the application is correct.

(4) An application for a beer and wine license submitted under this section is subject to the provisions of 16-4-203, 16-4-207, and 16-4-405.

(5) If a premises proposed for licensing under this section is a new or remodeled structure, then the department may issue a conditional license prior to completion of the premises based on reasonable evidence, including a statement from the applicant's architect or contractor confirming that the seating capacity stated on the application is correct, that the premises will be suitable for the carrying on of business as a bona fide restaurant, as defined in subsection (6).

(6) For purposes of this section, "restaurant" means a public eating place:

(a) where individually priced meals are prepared and served for on-premises consumption;

(b) At where at least 65% of the restaurant's annual gross income from the operation must be from the sale of food and not from the sale of alcoholic beverages. Each year after a license is issued, the applicant shall file with the department a statement, in a form approved by the department, attesting that at least 65% of the gross income of the restaurant during the prior year resulted from the sale of food.

(c) The restaurant must have that has a dining room, a kitchen, and the number and kinds of employees necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use as a full-service restaurant; and

(d) A full-service restaurant is a restaurant that provides that serves an evening dinner meal at least 4 days a week for at least 2 hours a day between the hours of 5 p.m. and 11 p.m.

(7) (a) (i) Subject to the conditions of subsection (7)(a)(ii), a restaurant beer and wine license may be transferred, upon approval by the department, from the original applicant to a new owner of the restaurant if there is no change of location, and the original owner may transfer location after the license is issued by the department to a new location, upon approval by the department.

(ii) A new owner may not transfer the license to a new location for a period of 1 year following the transfer of the license to the new owner.

(b) A license issued under this section may be jointly owned, and the license may pass to the surviving joint tenant upon the death of the other tenant. However, the license may not be transferred to any other person

or entity by operation of the laws of inheritance or succession or any other laws allowing the transfer of property upon the death of the owner in this state or in another state.

(c) An estate may, upon the sale of a restaurant that is property of the estate and with the approval of the department, transfer a restaurant beer and wine license to a new owner.

(8) (a) The department shall issue a restaurant beer and wine license to a qualified applicant:

(i) except as provided in subsection (8)(c), for a restaurant located in a quota area with a population of 5,000 persons or fewer, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(ii) for a restaurant located in a quota area with a population of 5,001 to 20,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 160% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iii) for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 100% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iv) for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105; and

(v) for a restaurant located in a quota area that is also a resort community, as the resort community is designated by the department of commerce under 7-6-1501(5), if the number of restaurant beer and wine licenses issued in the quota area that is also a resort community is equal to or less than 200% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105.

(b) In determining the number of restaurant beer and wine licenses that may be issued under this subsection (8) based on the percentage amounts described in subsections (8)(a)(i) through (8)(a)(v), the department shall round to the nearer whole number.

(c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota area under subsection (8)(a)(i), there must be a one-time adjustment of four additional licenses for that quota area.

(d) If there are more applicants than licenses available in a quota area, then the license must be awarded by lottery as provided in subsection (9).

(9) (a) When a restaurant beer and wine license becomes available by the initial issuance of licenses under this section or as the result of an increase in the population in the quota area, the nonrenewal of a restaurant beer and wine license, or the lapse or revocation of a license by the department, then the department shall advertise the availability of the license in the quota area for which it is available. If there are more applicants than number of licenses available, the license must be awarded to an applicant by a lottery.

(b) Any applicant who operates a restaurant in a quota area that meets the qualifications of subsection (6) for at least 12 months prior to the filing of an application must be given a preference, ~~and any unsuccessful lottery applicants from previous selections must also be given a preference~~ for a newly available restaurant beer and wine license. An applicant with ~~both preferences~~ a preference must be awarded a license before any applicant ~~with only one~~ without a preference.

(c) The department shall numerically rank all applicants in the lottery. Only the successful applicants will be required to submit a completed application and a one-time required fee. An applicant's ranking may not be sold or transferred to another person or entity. The preference and an applicant's ranking apply only to the intended license advertised by the department or to the number of licenses determined under subsection (8) when there are more applicants than licenses available. The applicant's qualifications for any other restaurant beer and wine license awarded by lottery must be determined at the time of the lottery.

(10) Under a restaurant beer and wine license, beer and wine may not be sold for off-premises consumption.

(11) An application for a restaurant beer and wine license must be accompanied by a fee equal to 20% of the initial licensing fee. If the department does not make a decision either granting or denying the license within 4 months of receipt of a complete application, the department shall pay interest on the application fee at the rate of 1% a month until a license is issued or the application is denied. Interest may not accrue during any period that the processing of an application is delayed by reason of a protest filed pursuant to 16-4-203 or 16-4-207. If the department denies an application, the application fee, plus any interest, less a processing fee established by rule, must be refunded to the applicant. Upon the issuance of a license, the licensee shall pay the balance of the initial licensing fee. The amount of the initial licensing fee is determined according to the following schedule:

- (a) \$5,000 for restaurants with a stated seating capacity of 60 persons or less;
- (b) \$10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or
- (c) \$20,000 for restaurants with a stated seating capacity of 101 persons or more.

(12) The annual fee for a restaurant beer and wine license is \$400.

(13) If a restaurant licensed under this part increases the stated seating capacity of the licensed restaurant or if the department determines that a licensee has increased the stated seating capacity of the licensed restaurant, then the licensee shall pay to the department the difference between the fees paid at the time of filing the original application and issuance of a license and the applicable fees for the additional seating.

(14) The number of beer and wine licenses issued to restaurants with a stated seating capacity of 101 persons or more may not exceed 25% of the total licenses issued.

(15) Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a restaurant beer and wine license."

NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 3. Applicability.** [This act] applies to restaurant beer and wine licenses applied for and to lotteries conducted on or after [the effective date of this act].

- END -

HOUSE BILL NO. 195
INTRODUCED BY R. HAMILTON

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATED TO THE QUALIFICATIONS AND CONDITIONS FOR OBTAINING A RESTAURANT BEER AND WINE LICENSE; CLARIFYING THE DEFINITION OF A FULL-SERVICE RESTAURANT; ELIMINATING THE REQUIREMENT THAT AN UNSUCCESSFUL LOTTERY APPLICANT BE GIVEN A PREFERENCE IN FUTURE LOTTERIES; AMENDING SECTION 16-4-420, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-4-420, MCA, is amended to read:

"16-4-420. Restaurant beer and wine license. (1) The department shall issue a restaurant beer and wine license to an applicant whenever the department determines that the applicant, in addition to satisfying the requirements of this section, meets the following qualifications and conditions:

~~(a) in the case of an individual applicant:~~

~~—— (i) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; and~~

~~—— (ii) the applicant is not under 19 years of age;~~

~~—— (b) in the case of a corporate applicant:~~

~~—— (i) in the case of a corporation listed on a national stock exchange, the corporate officers and the board of directors must meet the requirements of subsection (1)(a);~~

~~—— (ii) in the case of a corporation not listed on a national stock exchange, each owner of 10% or more of the outstanding stock must meet the requirements for an individual listed in subsection (1)(a); and~~

~~—— (iii) the corporation is authorized to do business in Montana;~~

~~—— (c) in the case of any other business entity, including but not limited to partnerships, including limited liability partnerships, limited partnerships, and limited liability companies, but not including any form of a trust:~~

~~—— (i) if the applicant consists of more than one individual, all individuals must meet the requirements of subsection (1)(a); and~~

~~—— (ii) if the applicant consists of more than one corporation, all corporations listed on a national stock~~

~~exchange must meet the requirements of subsection (1)(b)(i) and corporations not listed on a national stock exchange must meet the requirements of subsection (1)(b)(ii);~~ the applicant complies with the licensing criteria provided in 16-4-401 FOR AN ON-PREMISES CONSUMPTION LICENSE;

~~(d)(b)~~ the applicant operates a restaurant at the location where the restaurant beer and wine license will be used or satisfies the department that:

(i) the applicant intends to open a restaurant that will meet the requirements of subsection (6) and intends to operate the restaurant so that at least 65% of the restaurant's gross income during its first year of operation is expected to be the result of the sale of food;

(ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be stated on the food bill; and

(iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the department by rule;

~~(e)(c)~~ the applicant understands and acknowledges in writing on the application that this license prohibits the applicant from being licensed to conduct any gaming or gambling activity or operate any gambling machines and that if any gaming or gambling activity or machine exists at the location where the restaurant beer and wine license will be used, the activity must be discontinued or the machines must be removed before the restaurant beer and wine license takes effect; and

~~(f)(d)~~ the applicant states the planned seating capacity of the restaurant, if it is to be built, or the current seating capacity if the restaurant is operating.

(2) (a) A restaurant that has an existing retail license for the sale of beer, wine, or any other alcoholic beverage may not be considered for a restaurant beer and wine license at the same location.

(b) (i) An on-premises retail licensee who sells the licensee's existing retail license may not apply for a license under this section for a period of 1 year from the date that license is transferred to a new purchaser.

(ii) A person, including an individual, with an ownership interest in an existing on-premises retail license that is being transferred to a new purchaser may not attain an ownership interest in a license applied for under this section for a period of 1 year from the date that the existing on-premises retail license is transferred to a new purchaser.

(3) A completed application for a license under this section and the appropriate application fee, as provided in subsection (11), must be submitted to the department. The department shall investigate the items relating to the application as described in subsections (3)(a) through (3)(d). Based on the results of the

investigation and the exercise of its sound discretion, the department shall determine whether:

- (a) the applicant is qualified to receive a license;
- (b) the applicant's premises are suitable for the carrying on of the business;
- (c) the requirements of this code and the rules promulgated by the department are complied with; and
- (d) the seating capacity stated on the application is correct.

(4) An application for a beer and wine license submitted under this section is subject to the provisions of 16-4-203, 16-4-207, and 16-4-405.

(5) If a premises proposed for licensing under this section is a new or remodeled structure, then the department may issue a conditional license prior to completion of the premises based on reasonable evidence, including a statement from the applicant's architect or contractor confirming that the seating capacity stated on the application is correct, that the premises will be suitable for the carrying on of business as a bona fide restaurant, as defined in subsection (6).

(6) For purposes of this section, "restaurant" means a public eating place:

(a) where individually priced meals are prepared and served for on-premises consumption;

(b) At where at least 65% of the restaurant's annual gross income from the operation must be from the sale of food and not from the sale of alcoholic beverages. Each year after a license is issued, the applicant shall file with the department a statement, in a form approved by the department, attesting that at least 65% of the gross income of the restaurant during the prior year resulted from the sale of food.

(c) The restaurant must have that has a dining room, a kitchen, and the number and kinds of employees necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use as a full-service restaurant; and

(d) A full-service restaurant is a restaurant that provides that serves an evening dinner meal at least 4 days a week for at least 2 hours a day between the hours of 5 p.m. and 11 p.m.

(7) (a) (i) Subject to the conditions of subsection (7)(a)(ii), a restaurant beer and wine license may be transferred, upon approval by the department, from the original applicant to a new owner of the restaurant if there is no change of location, and the original owner may transfer location after the license is issued by the department to a new location, upon approval by the department.

(ii) A new owner may not transfer the license to a new location for a period of 1 year following the transfer of the license to the new owner.

(b) A license issued under this section may be jointly owned, and the license may pass to the surviving joint tenant upon the death of the other tenant. However, the license may not be transferred to any other person

or entity by operation of the laws of inheritance or succession or any other laws allowing the transfer of property upon the death of the owner in this state or in another state.

(c) An estate may, upon the sale of a restaurant that is property of the estate and with the approval of the department, transfer a restaurant beer and wine license to a new owner.

(8) (a) The department shall issue a restaurant beer and wine license to a qualified applicant:

(i) except as provided in subsection (8)(c), for a restaurant located in a quota area with a population of 5,000 persons or fewer, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(ii) for a restaurant located in a quota area with a population of 5,001 to 20,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 160% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iii) for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 100% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iv) for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105; and

(v) for a restaurant located in a quota area that is also a resort community, as the resort community is designated by the department of commerce under 7-6-1501(5), if the number of restaurant beer and wine licenses issued in the quota area that is also a resort community is equal to or less than 200% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105.

(b) In determining the number of restaurant beer and wine licenses that may be issued under this subsection (8) based on the percentage amounts described in subsections (8)(a)(i) through (8)(a)(v), the department shall round to the nearer whole number.

(c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota area under subsection (8)(a)(i), there must be a one-time adjustment of four additional licenses for that quota area.

(d) If there are more applicants than licenses available in a quota area, then the license must be awarded by lottery as provided in subsection (9).

(9) (a) When a restaurant beer and wine license becomes available by the initial issuance of licenses under this section or as the result of an increase in the population in the quota area, the nonrenewal of a restaurant beer and wine license, or the lapse or revocation of a license by the department, then the department shall advertise the availability of the license in the quota area for which it is available. If there are more applicants than number of licenses available, the license must be awarded to an applicant by a lottery.

(b) Any applicant who operates a restaurant in a quota area, AS PRESCRIBED IN 16-4-105, that meets the qualifications of subsection (6) for at least 12 months prior to the filing of an application must be given a preference, ~~and any unsuccessful lottery applicants from previous selections must also be given a preference for a newly available restaurant beer and wine license~~. An applicant with ~~both preferences~~ a preference must be awarded a license before any applicant ~~with only one~~ without a preference.

(c) The department shall numerically rank all applicants in the lottery. Only the successful applicants will be required to submit a completed application and a one-time required fee. An applicant's ranking may not be sold or transferred to another person or entity. The preference and an applicant's ranking apply only to the intended license advertised by the department or to the number of licenses determined under subsection (8) when there are more applicants than licenses available. The applicant's qualifications for any other restaurant beer and wine license awarded by lottery must be determined at the time of the lottery.

(10) Under a restaurant beer and wine license, beer and wine may not be sold for off-premises consumption.

(11) An application for a restaurant beer and wine license must be accompanied by a fee equal to 20% of the initial licensing fee. If the department does not make a decision either granting or denying the license within 4 months of receipt of a complete application, the department shall pay interest on the application fee at the rate of 1% a month until a license is issued or the application is denied. Interest may not accrue during any period that the processing of an application is delayed by reason of a protest filed pursuant to 16-4-203 or 16-4-207. If the department denies an application, the application fee, plus any interest, less a processing fee established by rule, must be refunded to the applicant. Upon the issuance of a license, the licensee shall pay the balance of the initial licensing fee. The amount of the initial licensing fee is determined according to the following schedule:

- (a) \$5,000 for restaurants with a stated seating capacity of 60 persons or less;
- (b) \$10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or
- (c) \$20,000 for restaurants with a stated seating capacity of 101 persons or more.

(12) The annual fee for a restaurant beer and wine license is \$400.

(13) If a restaurant licensed under this part increases the stated seating capacity of the licensed restaurant or if the department determines that a licensee has increased the stated seating capacity of the licensed restaurant, then the licensee shall pay to the department the difference between the fees paid at the time of filing the original application and issuance of a license and the applicable fees for the additional seating.

(14) The number of beer and wine licenses issued to restaurants with a stated seating capacity of 101 persons or more may not exceed 25% of the total licenses issued.

(15) Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a restaurant beer and wine license."

NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 3. Applicability.** [This act] applies to restaurant beer and wine licenses applied for and to lotteries conducted on or after [the effective date of this act].

- END -

HOUSE BILL NO. 195
INTRODUCED BY R. HAMILTON

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATED TO THE QUALIFICATIONS AND CONDITIONS FOR OBTAINING A RESTAURANT BEER AND WINE LICENSE; CLARIFYING THE DEFINITION OF A FULL-SERVICE RESTAURANT; ELIMINATING THE REQUIREMENT THAT AN UNSUCCESSFUL LOTTERY APPLICANT BE GIVEN A PREFERENCE IN FUTURE LOTTERIES; AMENDING SECTION 16-4-420, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-4-420, MCA, is amended to read:

"16-4-420. Restaurant beer and wine license. (1) The department shall issue a restaurant beer and wine license to an applicant whenever the department determines that the applicant, in addition to satisfying the requirements of this section, meets the following qualifications and conditions:

~~(a) in the case of an individual applicant:~~

~~—— (i) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; and~~

~~—— (ii) the applicant is not under 19 years of age;~~

~~—— (b) in the case of a corporate applicant:~~

~~—— (i) in the case of a corporation listed on a national stock exchange, the corporate officers and the board of directors must meet the requirements of subsection (1)(a);~~

~~—— (ii) in the case of a corporation not listed on a national stock exchange, each owner of 10% or more of the outstanding stock must meet the requirements for an individual listed in subsection (1)(a); and~~

~~—— (iii) the corporation is authorized to do business in Montana;~~

~~—— (c) in the case of any other business entity, including but not limited to partnerships, including limited liability partnerships, limited partnerships, and limited liability companies, but not including any form of a trust:~~

~~—— (i) if the applicant consists of more than one individual, all individuals must meet the requirements of subsection (1)(a); and~~

~~—— (ii) if the applicant consists of more than one corporation, all corporations listed on a national stock~~

~~exchange must meet the requirements of subsection (1)(b)(i) and corporations not listed on a national stock exchange must meet the requirements of subsection (1)(b)(ii);~~ the applicant complies with the licensing criteria provided in 16-4-401 FOR AN ON-PREMISES CONSUMPTION LICENSE;

~~(d)(b)~~ the applicant operates a restaurant at the location where the restaurant beer and wine license will be used or satisfies the department that:

(i) the applicant intends to open a restaurant that will meet the requirements of subsection (6) and intends to operate the restaurant so that at least 65% of the restaurant's gross income during its first year of operation is expected to be the result of the sale of food;

(ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be stated on the food bill; and

(iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the department by rule;

~~(e)(c)~~ the applicant understands and acknowledges in writing on the application that this license prohibits the applicant from being licensed to conduct any gaming or gambling activity or operate any gambling machines and that if any gaming or gambling activity or machine exists at the location where the restaurant beer and wine license will be used, the activity must be discontinued or the machines must be removed before the restaurant beer and wine license takes effect; and

~~(f)(d)~~ the applicant states the planned seating capacity of the restaurant, if it is to be built, or the current seating capacity if the restaurant is operating.

(2) (a) A restaurant that has an existing retail license for the sale of beer, wine, or any other alcoholic beverage may not be considered for a restaurant beer and wine license at the same location.

(b) (i) An on-premises retail licensee who sells the licensee's existing retail license may not apply for a license under this section for a period of 1 year from the date that license is transferred to a new purchaser.

(ii) A person, including an individual, with an ownership interest in an existing on-premises retail license that is being transferred to a new purchaser may not attain an ownership interest in a license applied for under this section for a period of 1 year from the date that the existing on-premises retail license is transferred to a new purchaser.

(3) A completed application for a license under this section and the appropriate application fee, as provided in subsection (11), must be submitted to the department. The department shall investigate the items relating to the application as described in subsections (3)(a) through (3)(d). Based on the results of the

investigation and the exercise of its sound discretion, the department shall determine whether:

- (a) the applicant is qualified to receive a license;
- (b) the applicant's premises are suitable for the carrying on of the business;
- (c) the requirements of this code and the rules promulgated by the department are complied with; and
- (d) the seating capacity stated on the application is correct.

(4) An application for a beer and wine license submitted under this section is subject to the provisions of 16-4-203, 16-4-207, and 16-4-405.

(5) If a premises proposed for licensing under this section is a new or remodeled structure, then the department may issue a conditional license prior to completion of the premises based on reasonable evidence, including a statement from the applicant's architect or contractor confirming that the seating capacity stated on the application is correct, that the premises will be suitable for the carrying on of business as a bona fide restaurant, as defined in subsection (6).

(6) (A) For purposes of this section, "restaurant" means a public eating place;

~~(a)(i)~~ where individually priced meals are prepared and served for on-premises consumption;

~~(b)(ii)~~ At where at least 65% of the restaurant's annual gross income from the operation must be from the sale of food and not from the sale of alcoholic beverages. Each year after a license is issued, the applicant shall file with the department a statement, in a form approved by the department, attesting that at least 65% of the gross income of the restaurant during the prior year resulted from the sale of food.

~~(c)(iii)~~ The restaurant must have that has a dining room, a kitchen, and the number and kinds of employees necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use as a full-service restaurant; and

~~(d)(iv)~~ A full-service restaurant is a restaurant that provides that serves an evening dinner meal at least 4 days a week for at least 2 hours a day between the hours of 5 p.m. and 11 p.m. THE PROVISIONS OF THIS SUBSECTION (6)(A)(IV) AND SUBSECTION (6)(B) DO NOT APPLY TO A RESTAURANT FOR WHICH A RESTAURANT BEER AND WINE LICENSE IS IN EFFECT AS OF [THE EFFECTIVE DATE OF THIS ACT] OR TO SUBSEQUENT RENEWALS OF THAT LICENSE.

(B) THE TERM DOES NOT MEAN A FAST-FOOD RESTAURANT THAT, EXCLUDING ANY CARRY-OUT BUSINESS, SERVES A MAJORITY OF ITS FOOD AND DRINK IN THROW-AWAY CONTAINERS NOT REUSED IN THE SAME RESTAURANT.

(7) (a) ~~(i) Subject to the conditions of subsection (7)(a)(ii), a~~ A restaurant beer and wine license may be transferred, upon approval by the department, from the original applicant to a new owner of the restaurant ~~if there is no change of location, and the original owner may transfer location after the license is issued by the department to a new location, upon approval by the department.~~

~~_____ (ii) A new owner may not transfer the license to a new location for a period of 1 year following the transfer of the license to the new~~ ONLY AFTER 1 YEAR OF USE BY THE ORIGINAL owner.

(b) A license issued under this section may be jointly owned, and the license may pass to the surviving joint tenant upon the death of the other tenant. However, the license may not be transferred to any other person or entity by operation of the laws of inheritance or succession or any other laws allowing the transfer of property upon the death of the owner in this state or in another state.

(c) An estate may, upon the sale of a restaurant that is property of the estate and with the approval of the department, transfer a restaurant beer and wine license to a new owner.

(8) (a) The department shall issue a restaurant beer and wine license to a qualified applicant:

(i) except as provided in subsection (8)(c), for a restaurant located in a quota area with a population of 5,000 persons or fewer, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(ii) for a restaurant located in a quota area with a population of 5,001 to 20,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 160% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iii) for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 100% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iv) for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105; and

(v) for a restaurant located in a quota area that is also a resort community, as the resort community is designated by the department of commerce under 7-6-1501(5), if the number of restaurant beer and wine licenses issued in the quota area that is also a resort community is equal to or less than 200% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105.

(b) In determining the number of restaurant beer and wine licenses that may be issued under this subsection (8) based on the percentage amounts described in subsections (8)(a)(i) through (8)(a)(v), the

department shall round to the nearer whole number.

(c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota area under subsection (8)(a)(i), there must be a one-time adjustment of four additional licenses for that quota area.

(d) If there are more applicants than licenses available in a quota area, then the license must be awarded by lottery as provided in subsection (9).

(9) (a) When a restaurant beer and wine license becomes available by the initial issuance of licenses under this section or as the result of an increase in the population in the quota area, the nonrenewal of a restaurant beer and wine license, or the lapse or revocation of a license by the department, then the department shall advertise the availability of the license in the quota area for which it is available. If there are more applicants than number of licenses available, the license must be awarded to an applicant by a lottery.

(b) ~~Any~~ A PREFERENCE MUST BE GIVEN TO AN applicant who DOES NOT YET HAVE IN ANY QUOTA AREA A RESTAURANT BEER AND WINE LICENSE OR A RETAIL BEER LICENSE AND WHO operates a restaurant ~~in a quota area, AS PRESCRIBED IN 16-4-105,~~ THAT IS IN THE QUOTA AREA DESCRIBED IN SUBSECTION (8) IN WHICH THE LICENSE HAS BECOME AVAILABLE AND that meets the qualifications of subsection (6) for at least 12 months prior to the filing of an application ~~must be given a preference, and any unsuccessful lottery applicants from previous selections must also be given a preference for a newly available restaurant beer and wine license.~~ An applicant with ~~both preferences~~ a preference must be awarded a license before any applicant ~~with only one~~ without a preference.

(c) The department shall numerically rank all applicants in the lottery. Only the successful applicants will be required to submit a completed application and a one-time required fee. An applicant's ranking may not be sold or transferred to another person or entity. The preference and an applicant's ranking apply only to the intended license advertised by the department or to the number of licenses determined under subsection (8) when there are more applicants than licenses available. The applicant's qualifications for any other restaurant beer and wine license awarded by lottery must be determined at the time of the lottery.

(D) IF A SUCCESSFUL LOTTERY APPLICANT DOES NOT USE A LICENSE WITHIN 1 YEAR OF NOTIFICATION BY THE DEPARTMENT OF LICENSE ELIGIBILITY, THE APPLICANT SHALL FORFEIT THE LICENSE. THE DEPARTMENT SHALL REFUND ANY FEES PAID EXCEPT THE APPLICATION FEE AND OFFER THE LICENSE TO THE NEXT ELIGIBLE RANKED APPLICANT IN THE LOTTERY.

(10) Under a restaurant beer and wine license, beer and wine may not be sold for off-premises consumption.

(11) An application for a restaurant beer and wine license must be accompanied by a fee equal to 20%

of the initial licensing fee. If the department does not make a decision either granting or denying the license within 4 months of receipt of a complete application, the department shall pay interest on the application fee at the rate of 1% a month until a license is issued or the application is denied. Interest may not accrue during any period that the processing of an application is delayed by reason of a protest filed pursuant to 16-4-203 or 16-4-207. If the department denies an application, the application fee, plus any interest, less a processing fee established by rule, must be refunded to the applicant. Upon the issuance of a license, the licensee shall pay the balance of the initial licensing fee. The amount of the initial licensing fee is determined according to the following schedule:

- (a) \$5,000 for restaurants with a stated seating capacity of 60 persons or less;
- (b) \$10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or
- (c) \$20,000 for restaurants with a stated seating capacity of 101 persons or more.

(12) The annual fee for a restaurant beer and wine license is \$400.

(13) If a restaurant licensed under this part increases the stated seating capacity of the licensed restaurant or if the department determines that a licensee has increased the stated seating capacity of the licensed restaurant, then the licensee shall pay to the department the difference between the fees paid at the time of filing the original application and issuance of a license and the applicable fees for the additional seating.

(14) The number of beer and wine licenses issued to restaurants with a stated seating capacity of 101 persons or more may not exceed 25% of the total licenses issued.

(15) Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a restaurant beer and wine license."

NEW SECTION. SECTION 2. SAVING CLAUSE. [THIS ACT] DOES NOT AFFECT RIGHTS AND DUTIES THAT MATURED, PENALTIES THAT WERE INCURRED, OR PROCEEDINGS THAT WERE BEGUN BEFORE [THE EFFECTIVE DATE OF THIS ACT].

NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 4. Applicability. [This act] applies to restaurant beer and wine licenses applied for and to lotteries conducted on or after [the effective date of this act].

- END -



AN ACT REVISING THE LAWS RELATED TO THE QUALIFICATIONS AND CONDITIONS FOR OBTAINING A RESTAURANT BEER AND WINE LICENSE; CLARIFYING THE DEFINITION OF A FULL-SERVICE RESTAURANT; ELIMINATING THE REQUIREMENT THAT AN UNSUCCESSFUL LOTTERY APPLICANT BE GIVEN A PREFERENCE IN FUTURE LOTTERIES; AMENDING SECTION 16-4-420, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-4-420, MCA, is amended to read:

"16-4-420. Restaurant beer and wine license. (1) The department shall issue a restaurant beer and wine license to an applicant whenever the department determines that the applicant, in addition to satisfying the requirements of this section, meets the following qualifications and conditions:

(a) ~~in the case of an individual applicant:~~

~~—— (i) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; and~~

~~—— (ii) the applicant is not under 19 years of age;~~

~~—— (b) in the case of a corporate applicant:~~

~~—— (i) in the case of a corporation listed on a national stock exchange, the corporate officers and the board of directors must meet the requirements of subsection (1)(a);~~

~~—— (ii) in the case of a corporation not listed on a national stock exchange, each owner of 10% or more of the outstanding stock must meet the requirements for an individual listed in subsection (1)(a); and~~

~~—— (iii) the corporation is authorized to do business in Montana;~~

~~—— (c) in the case of any other business entity, including but not limited to partnerships, including limited liability partnerships, limited partnerships, and limited liability companies, but not including any form of a trust:~~

~~—— (i) if the applicant consists of more than one individual, all individuals must meet the requirements of subsection (1)(a); and~~

~~—— (ii) if the applicant consists of more than one corporation, all corporations listed on a national stock~~

~~exchange must meet the requirements of subsection (1)(b)(i) and corporations not listed on a national stock exchange must meet the requirements of subsection (1)(b)(ii);~~ the applicant complies with the licensing criteria provided in 16-4-401 for an on-premises consumption license;

~~(d)(b)~~ the applicant operates a restaurant at the location where the restaurant beer and wine license will be used or satisfies the department that:

(i) the applicant intends to open a restaurant that will meet the requirements of subsection (6) and intends to operate the restaurant so that at least 65% of the restaurant's gross income during its first year of operation is expected to be the result of the sale of food;

(ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be stated on the food bill; and

(iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the department by rule;

~~(e)(c)~~ the applicant understands and acknowledges in writing on the application that this license prohibits the applicant from being licensed to conduct any gaming or gambling activity or operate any gambling machines and that if any gaming or gambling activity or machine exists at the location where the restaurant beer and wine license will be used, the activity must be discontinued or the machines must be removed before the restaurant beer and wine license takes effect; and

~~(f)(d)~~ the applicant states the planned seating capacity of the restaurant, if it is to be built, or the current seating capacity if the restaurant is operating.

(2) (a) A restaurant that has an existing retail license for the sale of beer, wine, or any other alcoholic beverage may not be considered for a restaurant beer and wine license at the same location.

(b) (i) An on-premises retail licensee who sells the licensee's existing retail license may not apply for a license under this section for a period of 1 year from the date that license is transferred to a new purchaser.

(ii) A person, including an individual, with an ownership interest in an existing on-premises retail license that is being transferred to a new purchaser may not attain an ownership interest in a license applied for under this section for a period of 1 year from the date that the existing on-premises retail license is transferred to a new purchaser.

(3) A completed application for a license under this section and the appropriate application fee, as provided in subsection (11), must be submitted to the department. The department shall investigate the items

relating to the application as described in subsections (3)(a) through (3)(d). Based on the results of the investigation and the exercise of its sound discretion, the department shall determine whether:

- (a) the applicant is qualified to receive a license;
- (b) the applicant's premises are suitable for the carrying on of the business;
- (c) the requirements of this code and the rules promulgated by the department are complied with; and
- (d) the seating capacity stated on the application is correct.

(4) An application for a beer and wine license submitted under this section is subject to the provisions of 16-4-203, 16-4-207, and 16-4-405.

(5) If a premises proposed for licensing under this section is a new or remodeled structure, then the department may issue a conditional license prior to completion of the premises based on reasonable evidence, including a statement from the applicant's architect or contractor confirming that the seating capacity stated on the application is correct, that the premises will be suitable for the carrying on of business as a bona fide restaurant, as defined in subsection (6).

(6) (a) For purposes of this section, "restaurant" means a public eating place;

(i) where individually priced meals are prepared and served for on-premises consumption;

(ii) ~~At where~~ at least 65% of the restaurant's annual gross income from the operation must be from the sale of food and not from the sale of alcoholic beverages. Each year after a license is issued, the applicant shall file with the department a statement, in a form approved by the department, attesting that at least 65% of the gross income of the restaurant during the prior year resulted from the sale of food.

(iii) ~~The restaurant must have~~ that has a dining room, a kitchen, and the number and kinds of employees necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use as a full-service restaurant; and

(iv) ~~A full-service restaurant is a restaurant that provides~~ that serves an evening dinner meal at least 4 days a week for at least 2 hours a day between the hours of 5 p.m. and 11 p.m. The provisions of this subsection (6)(a)(iv) and subsection (6)(b) do not apply to a restaurant for which a restaurant beer and wine license is in effect as of [the effective date of this act] or to subsequent renewals of that license.

(b) The term does not mean a fast-food restaurant that, excluding any carry-out business, serves a majority of its food and drink in throw-away containers not reused in the same restaurant.

(7) (a) ~~(i) Subject to the conditions of subsection (7)(a)(ii), a~~ A restaurant beer and wine license may be transferred, upon approval by the department, from the original applicant to a new owner of the restaurant ~~if there~~

~~is no change of location, and the original owner may transfer location after the license is issued by the department to a new location, upon approval by the department.~~

~~—— (ii) A new owner may not transfer the license to a new location for a period of 1 year following the transfer of the license to the new only after 1 year of use by the original owner.~~

(b) A license issued under this section may be jointly owned, and the license may pass to the surviving joint tenant upon the death of the other tenant. However, the license may not be transferred to any other person or entity by operation of the laws of inheritance or succession or any other laws allowing the transfer of property upon the death of the owner in this state or in another state.

(c) An estate may, upon the sale of a restaurant that is property of the estate and with the approval of the department, transfer a restaurant beer and wine license to a new owner.

(8) (a) The department shall issue a restaurant beer and wine license to a qualified applicant:

(i) except as provided in subsection (8)(c), for a restaurant located in a quota area with a population of 5,000 persons or fewer, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(ii) for a restaurant located in a quota area with a population of 5,001 to 20,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 160% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iii) for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 100% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iv) for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105; and

(v) for a restaurant located in a quota area that is also a resort community, as the resort community is designated by the department of commerce under 7-6-1501(5), if the number of restaurant beer and wine licenses issued in the quota area that is also a resort community is equal to or less than 200% of the number of beer

licenses that may be issued in that quota area pursuant to 16-4-105.

(b) In determining the number of restaurant beer and wine licenses that may be issued under this subsection (8) based on the percentage amounts described in subsections (8)(a)(i) through (8)(a)(v), the department shall round to the nearer whole number.

(c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota area under subsection (8)(a)(i), there must be a one-time adjustment of four additional licenses for that quota area.

(d) If there are more applicants than licenses available in a quota area, then the license must be awarded by lottery as provided in subsection (9).

(9) (a) When a restaurant beer and wine license becomes available by the initial issuance of licenses under this section or as the result of an increase in the population in the quota area, the nonrenewal of a restaurant beer and wine license, or the lapse or revocation of a license by the department, then the department shall advertise the availability of the license in the quota area for which it is available. If there are more applicants than number of licenses available, the license must be awarded to an applicant by a lottery.

(b) ~~Any~~ A preference must be given to an applicant who does not yet have in any quota area a restaurant beer and wine license or a retail beer license and who operates a restaurant that is in the quota area described in subsection (8) in which the license has become available and that meets the qualifications of subsection (6) for at least 12 months prior to the filing of an application ~~must be given a preference, and any unsuccessful lottery applicants from previous selections must also be given a preference.~~ An applicant with ~~both preferences~~ a preference must be awarded a license before any applicant ~~with only one~~ without a preference.

(c) The department shall numerically rank all applicants in the lottery. Only the successful applicants will be required to submit a completed application and a one-time required fee. An applicant's ranking may not be sold or transferred to another person or entity. The preference and an applicant's ranking apply only to the intended license advertised by the department or to the number of licenses determined under subsection (8) when there are more applicants than licenses available. The applicant's qualifications for any other restaurant beer and wine license awarded by lottery must be determined at the time of the lottery.

(d) If a successful lottery applicant does not use a license within 1 year of notification by the department of license eligibility, the applicant shall forfeit the license. The department shall refund any fees paid except the application fee and offer the license to the next eligible ranked applicant in the lottery.

(10) Under a restaurant beer and wine license, beer and wine may not be sold for off-premises

consumption.

(11) An application for a restaurant beer and wine license must be accompanied by a fee equal to 20% of the initial licensing fee. If the department does not make a decision either granting or denying the license within 4 months of receipt of a complete application, the department shall pay interest on the application fee at the rate of 1% a month until a license is issued or the application is denied. Interest may not accrue during any period that the processing of an application is delayed by reason of a protest filed pursuant to 16-4-203 or 16-4-207. If the department denies an application, the application fee, plus any interest, less a processing fee established by rule, must be refunded to the applicant. Upon the issuance of a license, the licensee shall pay the balance of the initial licensing fee. The amount of the initial licensing fee is determined according to the following schedule:

- (a) \$5,000 for restaurants with a stated seating capacity of 60 persons or less;
- (b) \$10,000 for restaurants with a stated seating capacity of 61 to 100 persons; or
- (c) \$20,000 for restaurants with a stated seating capacity of 101 persons or more.

(12) The annual fee for a restaurant beer and wine license is \$400.

(13) If a restaurant licensed under this part increases the stated seating capacity of the licensed restaurant or if the department determines that a licensee has increased the stated seating capacity of the licensed restaurant, then the licensee shall pay to the department the difference between the fees paid at the time of filing the original application and issuance of a license and the applicable fees for the additional seating.

(14) The number of beer and wine licenses issued to restaurants with a stated seating capacity of 101 persons or more may not exceed 25% of the total licenses issued.

(15) Possession of a restaurant beer and wine license is not a qualification for licensure of any gaming or gambling activity. A gaming or gambling activity may not occur on the premises of a restaurant with a restaurant beer and wine license."

Section 2. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 3. Effective date. [This act] is effective on passage and approval.

Section 4. Applicability. [This act] applies to restaurant beer and wine licenses applied for and to lotteries conducted on or after [the effective date of this act].

- END -

I hereby certify that the within bill,
HB 0195, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2019.

President of the Senate

Signed this _____ day
of _____, 2019.

HOUSE BILL NO. 195
INTRODUCED BY R. HAMILTON

AN ACT REVISING THE LAWS RELATED TO THE QUALIFICATIONS AND CONDITIONS FOR OBTAINING A RESTAURANT BEER AND WINE LICENSE; CLARIFYING THE DEFINITION OF A FULL-SERVICE RESTAURANT; ELIMINATING THE REQUIREMENT THAT AN UNSUCCESSFUL LOTTERY APPLICANT BE GIVEN A PREFERENCE IN FUTURE LOTTERIES; AMENDING SECTION 16-4-420, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 61st LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order:

VICE CHAIRWOMAN REINHART, on January 16, 2009 at 8:05 A.M.,
in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Bill Wilson, Chairman (D)
Rep. Bill Beck, Vice Chairman (R)
Rep. Michele Reinhart, Vice Chairwoman (D)
Rep. Elsie Arntzen (R)
Rep. Shannon Augare (D)
Rep. Paul Beck (D)
Rep. Tom Berry (R)
Rep. Carlie Boland (D)
Rep. John Fleming (D)
Rep. Timothy Furey (D)
Rep. Chuck Hunter (D)
Rep. Harry Klock (R)
Rep. Mike Milburn (R)
Rep. Pat Noonan (D)
Rep. Scott Reichner (R)
Rep. Cary Smith (R)
Rep. Gordon Vance (R)
Rep. Jeffery Welborn (R)

Members Excused: None.

Members Absent: None.

Staff Present: Santella Baglivo, Committee Secretary
Bart Campbell, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 195, 1/12/2009; HB 225,
1/12/2009

Executive Action: None

HEARING ON HB 195

Opening Statement by Sponsor:

00:00:59 **REP. ROBIN HAMILTON (D), HD 92**, opened the hearing on
HB 195, Revise restaurant beer and wine license laws.

00:02:22 Rep. Arntzen enters.

Proponents' Testimony:

00:03:15 Shauna Helfert, Department of Revenue

00:07:42 Mark Staples, Montana Tavern Association

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:18:03 Rep. Fleming

00:18:42 Mr. Staples

00:20:23 Rep. Hunter

00:21:15 Ms. Helfert

00:22:25 Rep. Arntzen

00:23:03 Ms. Helfert

00:24:15 Rep. B. Beck

00:23:40 Ms. Helfert

Closing by Sponsor:

00:25:11 Rep. Hamilton

HEARING ON HB 225

Opening Statement by Sponsor:

00:25:45 **REP. CHUCK HUNTER (D), HD 79**, opened the hearing on **HB 225**, Include deputy sheriffs in police arbitration act.
EXHIBIT(buh10a01)

Proponents' Testimony:

00:28:53 Roger Bodine, Deputy Sheriff, Yellowstone County
Sheriff's Department
00:31:48 Nick Reyna, Deputy Sheriff, Yellowstone County
Sheriff's Department
00:32:42 Jamie Swecker, Deputy Sheriff, Yellowstone County
Sheriff's Department
00:34:07 Tom Schneider, Montana Public Employees Association
EXHIBIT (buh10a02)
00:36:04 David Kaufmann, Deputy Sheriff, Flathead County
Sheriff's Department
00:37:44 Josh Buls, Deputy Sheriff, Flathead County Sheriff's
Department
00:38:50 Jason Miller, Local Unions, International Brotherhood
of Teamsters

EXHIBIT (buh10a03)

00:44:48 Chaz Berkins, Montana Firefighters Association

Opponents' Testimony: None

Informational Testimony:

00:45:25 John Andrew, Department of Labor and Industry

Questions from Committee Members and Responses:

00:46:40 Rep. Milburn
00:46:58 Mr. Andrew
00:47:27 Rep. Milburn
00:47:32 Mr. Schneider
00:48:45 Rep. Wilson
00:48:58 Rep. Hunter
00:50:00 Rep. Reichner
00:50:20 Vice Chairman Reinhart
00:50:31 Rep. Hunter
00:51:20 Rep. B. Beck
00:51:39 Mr. Schneider
00:52:05 Rep. B. Beck
00:52:21 Mr. Schneider
00:52:31 Rep. Fleming
00:53:17 Mr. Schneider
00:54:58 Mr. Miller
00:55:33 Rep. Arntzen
00:55:58 Mr. Andrew
00:56:01 Rep. Arntzen
00:56:25 Mr. Andrew
00:57:05 Rep. Arntzen
00:57:15 Mr. Andrew

00:57:59 Rep. Arntzen

00:58:28 Mr. Bodine

Closing by Sponsor:

00:59:01 Rep. Hunter

Announcements:

01:00:25 Rep. Klock

ADJOURNMENT

01:01:03 Adjournment: 9:06 A.M.

SANTELLA BAGLIVO, Secretary

sb

Additional Documents:

EXHIBIT ([buh10aad.pdf](#))

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 61st LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS AND LABOR

Call to Order:

Chairman Bill Wilson, on January 27, 2009 at 8:30 A.M., in Room 172 Capitol.

ROLL CALL

Members Present:

Rep. Bill Wilson, Chairman (D)
Rep. Bill Beck, Vice Chairman (R)
Rep. Michele Reinhart, Vice Chairwoman (D)
Rep. Elsie Arntzen (R)
Rep. Shannon Augare (D)
Rep. Paul Beck (D)
Rep. Tom Berry (R)
Rep. Carlie Boland (D)
Rep. John Fleming (D)
Rep. Timothy Furey (D)
Rep. Chuck Hunter (D)
Rep. Harry Klock (R)
Rep. Mike Milburn (R)
Rep. Pat Noonan (D)
Rep. Scott Reichner (R)
Rep. Cary Smith (R)
Rep. Gordon Vance (R)
Rep. Jeffery Welborn (R)

Members Excused: None

Members Absent: None

Staff Present: Santella Baglivo, Committee Secretary
Bart Campbell, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 283, 1/22/2009; HB 291,
1/22/2009, HB 204; 1/23/2009

Executive Action: HB 195, HB 114, HB 148, HB 234

HEARING ON HB 204

Opening Statement by Sponsor:

00:01:10 Rep. Bob Ebinger (D), HD 62, opened the hearing on
HB 204, Revise work comp law re independent contractor
for 10-year period.

00:01:37 Rep. Furey enters.

Proponents' Testimony:

00:04:43 Chuck Defandorf, Independent Contractor, Livingston
00:05:46 Keith Goodhart, Sheep Rancher, Big Timber
00:06:47 Senator Esp, SD 31, Park and Sweetgrass County
00:07:59 Rich Baerg, Contractor, Livingston

Opponents' Testimony:

00:09:22 Kevin Braun, Claim Attorney, Montana State Fund
00:11:37 Jason Miller, International Brotherhood of Teamsters,
Local 190
00:14:58 Bob Worthington, Montana Self Insurers Association
00:16:10 Robert Johnson, Montana AFL-CIO
00:16:31 Reily Johnson, National Federation of Independent
Business

Informational Testimony:

00:18:34 Jerry Keck, Administrator, Employee Relations Division,
Department of Labor and Industry

[EXHIBIT](#) (buh19a01)

Questions from Committee Members and Responses:

00:29:09 Rep. Reinhart
00:29:28 Mr. Keck
00:33:28 Rep. B. Beck
00:34:12 Mr. Keck
00:34:16 Rep. B. Beck
00:35:09 Mr. Keck

00:36:26 Rep. B. Beck
00:36:45 Mr. Keck
00:37:13 Rep. Arntzen
00:37:42 Mr. Keck
00:38:00 Rep. Arntzen
00:38:18 Mr. Keck
00:39:00 Rep. Arntzen
00:39:13 Mr. Keck
00:39:30 Rep. Hunter
00:39:44 Mr. Keck
00:39:53 Rep. Hunter
00:40:08 Mr. Keck
00:40:13 Rep. Hunter
00:40:34 Mr. Keck
00:41:11 Rep. Milburn
00:41:32 Mr. Keck
00:41:48 Rep. Reinhart
00:42:13 Mr. Keck
00:42:30 Rep. Reinhart
00:42:40 Mr. Keck
00:42:47 Rep. Reinhart
00:43:02 Mr. Goodhart
00:43:44 Rep. Reinhart
00:43:50 Mr. Goodhart
00:43:53 Rep. Reinhart
00:44:03 Mr. Goodhart

Closing by Sponsor:

00:44:34 Rep. Ebinger

HEARING ON HB 283

Opening Statement by Sponsor:

00:47:48 Rep. Dennis Himmelberger (R), HD 47, opened the hearing on HB 283, Revise workers compensation act on exemptions, claims examiners, safety funding.

00:48:33 Rep. Augare enters.

Proponents' Testimony:

00:52:21 Bob Worthington, Co-Vice Chairman, Labor Management Advisory Council

EXHIBIT (buh19a02)

01:00:00 Jason Miller, Co-Vice Chairman, Labor Management Advisory Council

01:02:57 Don Judge, Montana Injured Workers Resource Council
01:07:53 Jerry Keck, Administrator, Employee Relations Division,
Department of Labor and Industry

EXHIBIT (buh19a03)

01:09:48 Nancy Butler, General Counsel, Montana State Fund

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

01:10:34 Rep. Reichner
01:11:27 Mr. Keck
01:12:51 Rep. Reichner
01:13:17 Mr. Keck

Closing by Sponsor:

01:14:22 Rep. Himmelberger

01:15:16 Chairman Wilson calls a recess.
01:33:09 Chairman Wilson resumes hearing.

HEARING ON HB 291

Opening Statement by Sponsor:

01:33:48 Rep. Jon Sonju (R), HD 7, opened the hearing on HB 291,
Revise ins. law on glass & body repair to use average
prevailing market price.

Proponents' Testimony:

01:35:23 Bruce Halcrow, President, Montana Collision Repair
Specialists
01:37:22 Todd Litton, Self, Billings
01:38:27 Max Yates, Shop Owner, Butte, Montana, Montana
Collision Repair Specialists
01:39:15 Andrew Geiger, Montana Collision Repair Specialists

Opponents' Testimony:

01:39:50 Greg VanHorssen, State Farm Insurance Company
01:49:12 Dwight Easton, Farmers Insurance Company

EXHIBIT (buh19a04)

01:51:00 Mona Jamison, Allstate Insurance Company

Informational Testimony: None

Questions from Committee Members and Responses:

01:52:31 Rep. B. Beck
01:53:18 Rep. Sonju
01:54:27 Rep. B. Beck
01:55:30 Rep. Sonju
01:55:14 Rep. Vance
01:55:37 Mr. Geiger
01:56:05 Mr. Halcrow
01:56:56 Rep. Vance
01:56:57 Mr. Halcrow
01:57:36 Rep. Reinhart
01:57:49 Mr. Halcrow
01:58:44 Rep. Furey
01:59:05 Mr. Halcrow

Closing by Sponsor:

01:59:58 Rep. Sonju

02:01:33 Chairman Wilson calls a recess.
02:15:18 Chairman Wilson resumes hearing.

EXECUTIVE ACTION ON HB 234

02:16:06 **Motion:** Rep. Reinhart moved that **HB 234 DO PASS.**

02:16:17 Mr. Campbell

02:16:41 **Motion:** Rep. Reinhart moved that **234 BE AMENDED.**
EXHIBIT (buh19a05)

Discussion:

02:17:19 Mr. Campbell
02:17:48 Rep. Reinhart
02:18:17 Rep. Klock
02:18:44 Rep. Reinhart
02:19:12 Mr. Campbell
02:19:59 Rep. Reinhart
02:20:30 Rep. Arntzen
02:20:56 Mr. Campbell
02:21:43 Rep. Arntzen
02:22:09 Rep. Furey
02:24:10 Rep. Milburn
02:24:39 Shawna Helfert, Administrator, Liquor Control Division,
Department of Revenue

02:25:12 **Vote:** Motion failed 6-12 by roll call vote with Rep. Augare, Rep. Beck, Rep. Furey, Rep. Hunter, Rep. Noonan, and Rep. Reinhart voting aye.

Discussion:

02:26:37 Rep. Reinhart

02:27:24 **Vote:** Motion failed unanimously.

02:28:38 **Motion/Vote:** Rep. Reinhart moved that **HB 234 BE TABLED AND THE VOTE REVERSED.** Motion carried unanimously by voice vote.

02:28:51 Rep. Arntzen

EXECUTIVE ACTION ON HB 114

02:30:50 **Motion:** Rep. Beck moved that **HB 114 DO PASS.**

02:31:09 Mr. Campbell

02:31:20 **Motion:** Rep. Augare moved that **HB 114 BE AMENDED. [EXHIBIT \(buh19a06\)](#)**

Discussion:

02:31:32 Mr. Campbell

02:32:45 Rep. B. Beck

02:33:06 **Vote:** Motion carried unanimously by voice vote. Rep. Reinhart voted by proxy.

Discussion:

02:33:24 Rep. Beck

02:34:00 **Vote:** Motion carried unanimously by voice vote. Rep. Reinhart voted by proxy.

02:34:22 Rep. Arntzen

EXECUTIVE ACTION ON HB 195

02:36:10 **Motion:** Rep. Hunter moved that **HB 195 DO PASS.**

02:36:39 **Motion:** Rep. Augare moved that **HB 195 BE AMENDED. [EXHIBIT \(buh19a07\)](#)**

Discussion:

02:36:54 Mr. Campbell

02:37:31 Ms. Helfert

02:38:18 **Vote:** Motion carried unanimously by voice vote. Rep. Reinhart voted by proxy.

02:38:40 **Motion:** Rep. Augare moved that **HB 195 DO PASS AS AMENDED.**

Discussion:

02:38:54 Rep. Reichner

02:39:38 Ms. Helfert

02:40:15 **Vote:** Motion carried unanimously by voice vote. Rep. Reinhart voted by proxy.

EXECUTIVE ACTION ON HB 148

02:40:46 **Motion:** Rep. Beck moved that **HB 148 DO PASS.**

Discussion:

02:41:03 Rep. Augare

02:41:29 **Vote:** Motion failed 6-12 by roll call vote with Rep. Beck, Rep. Klock, Rep. Reichner, Rep. Smith, Rep. Vance, and Rep. Welborn voting aye. Rep. Reinhart voted by proxy.

02:42:53 **Motion/Vote:** Rep. Milburn moved that **HB 148 BE TABLED AND THE VOTE REVERSED.** Motion carried unanimously by voice vote. Rep. Reinhart voted by proxy.

Additional Documents

ADJOURNMENT

02:43:15 Adjournment: 11:13 A.M.

SANTELLA BAGLIVO, Secretary

sb

Additional Documents:

EXHIBIT ([buh19aad.pdf](#))

EXHIBIT § 7
DATE 1-27-09
HB 195

Amendments to House Bill No. 195
1st Reading Copy

Requested by Representative Robin Hamilton

For the House Business and Labor Committee

Prepared by Bartley Campbell
January 15, 2009 (3:52pm)

1. Page 2, line 4.

Following: "16-4-401"

Insert: "for an on-premises consumption license"

2. Page 5, line 12.

Following: "area"

Insert: ", as prescribed in 16-4-105,"

- END -

MINUTES

MONTANA SENATE 61st LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS, LABOR, AND ECONOMIC AFFAIRS

Call to Order: Vice Chair Joe Tropila, on March 4, 2009 at 10
A.M., in Room 422 Capitol

ROLL CALL

Members Present:

Sen. Gregory D. Barkus (R)
Sen. Roy Brown (R)
Sen. Jim Keane (D)
Sen. Donald J. Steinbeisser (R)
Sen. Sharon Stewart-Peregoy (D)
Sen. Joseph (Joe) Tropila (D)

Members Excused: Sen. Joe Balyeat, Chairman (R)
Sen. Verdell Jackson, Vice Chairman (R)
Sen. Jim Peterson (R)
Sen. Carolyn Squires (D)
Sen. Jonathan Windy Boy (D)

Members Absent: None

Staff Present: Linda Keim, Committee Secretary
Pat Murdo, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 80, HB 171, HB 195, HB 94,
2/24/2009

Executive Action: None

HEARING ON HB 80

Opening Statement by Sponsor:

00:00:02 Rep. Deborah Kottel (D), HD 20, opened the hearing on
HB 80, Revise professional and occupational licensing
laws.

EXHIBIT (bus48a01)

Proponents' Testimony:

00:03:46 Jack Kane, Deputy Administrator, Business Standards
Division, Department of Labor and Industry (DOLI)

00:17:41 Darcy Moe, Attorney, Business Standards Division, DOLI

00:18:06 Rick Reisig, CPA, Chair, Montana Board of Public
Accountants

EXHIBIT (bus48a02)

00:20:51 Ryan Screnar, CPA, President, Montana Society of CPAs

EXHIBIT (bus48a03)

00:23:01 Gloria Hermanson, Montana Society of Otolaryngology

00:23:38 Mona Jamison, Attorney, Lobbyist, Boyd Andrew Community
Services

00:30:25 Candace Payne, Rimrock Foundation

00:32:15 Aidan Myhre, Montana Addictive Service Providers

00:32:47 Pat Keim, Alternatives, Inc.

00:33:26 Margaret Morgan, Montana Association of Physical
Therapists

00:34:09 Holly Franz, Montana Society of CPAs

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

00:35:17 Rep. Kottel

00:36:23 Sen. Balyeat entered and assumed the position of
Chairman.

HEARING ON HB 171

Opening Statement by Sponsor:

00:36:50 Rep. Shannon Augare (D), HD 16, opened the hearing on HB 171, Repeal state regulation of pro and semipro combative events.

Proponents' Testimony:

00:37:24 Jack Kane, Deputy Administrator, Business Standards Division, Department of Labor

Opponents' Testimony: None

Informational Testimony:

00:44:43 Wayne Johnston, Executive officer, Montana Athletic Program

Questions from Committee Members and Responses: None

Closing by Sponsor:

00:45:12 Rep. Augare

00:46:00 Sen. Windy Boy arrived.

HEARING ON HB 195

Opening Statement by Sponsor:

00:46:08 Rep. Robin Hamilton (D), HD 92, opened the hearing on HB 195, Revise restaurant beer and wine license laws.

Proponents' Testimony:

00:49:05 Shauna Helfert, Administrator, Liquor Control Division, Department of Revenue

00:52:44 Mark Staples, Montana Tavern Association

Opponents' Testimony: None

Informational Testimony:

00:58:23 Paul Peterson, self, Bozeman

01:01:44 Sen. Windy Boy left the room.

Questions from Committee Members and Responses:

01:18:46 Sen. Barkus
01:18:56 Shauna Helfert
01:20:30 Chairman Balyeat

01:20:56 Sen. Keane left the room.

01:23:22 Shauna Helfert
01:24:04 Chairman Balyeat
01:24:44 C. A. Daw, Chief Legal, Department of Revenue
01:25:09 Chairman Balyeat
01:29:55 Mark Staples
01:31:17 Chairman Balyeat
01:32:40 Shauna Helfert
01:32:51 Sen. Brown
01:34:41 Shauna Helfert
01:35:09 Sen. Barkus
01:35:17 Paul Peterson

01:35:27 Sen. Jackson arrived.

Closing by Sponsor:

01:38:16 Rep. Hamilton

01:39:46 Sen. Keane returned.

HEARING ON HB 94

Opening Statement by Sponsor:

01:40:00 Rep. Walter McNutt (R), HD 37, opened the hearing on HB 94, Clarify liquor license laws related to security interests.

Proponents' Testimony:

01:47:30 Amy Grmoljez, Attorney, Montana Bankers Association
[EXHIBIT \(bus48a04\)](#)

01:52:32 Steve Turkiewicz, Montana Bankers Association

01:53:09 Sen. Stewart-Peregoy left the room.

01:54:53 Steve Yeakel, Montana Independent Bankers
01:55:15 Clyde Dailey, Montana Credit Union Network

Opponents' Testimony:

01:55:53 Shauna Helfert, Administrator, Liquor Control Bureau,
Department of Revenue

[EXHIBIT \(bus48a05\)](#)

Informational Testimony: None

Questions from Committee Members and Responses:

01:59:39 Sen. Keane

01:59:46 Rep. McNutt

02:00:03 Sen. Barkus

02:01:50 Shauna Helfert

Closing by Sponsor:

02:02:29 Rep. McNutt

02:07:16 Chairman Balyeat

Additional Exhibits:

[EXHIBIT \(bus48a06\)](#) Followup on HB 160 of 3/3/09 from Jacqueline
Lenmark

ADJOURNMENT

Adjournment: 12:13 P.M.

Linda Keim, Secretary

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Additional Documents:

EXHIBIT ([bus48aad.pdf](#))

MINUTES

MONTANA SENATE 61st LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS, LABOR, AND ECONOMIC AFFAIRS

Call to Order: Chairman Joe Balyeat, on March 18, 2009 at 10
A.M., in Room 422 Capitol

ROLL CALL

Members Present:

Sen. Joe Balyeat, Chairman (R)
Sen. Verdell Jackson, Vice Chairman (R)
Sen. Roy Brown (R)
Sen. Jim Keane (D)
Sen. Donald J. Steinbeisser (R)
Sen. Joseph (Joe) Tropila (D)

Members Excused: Sen. Gregory D. Barkus (R)
Sen. Jim Peterson (R)
Sen. Carolyn Squires (D)
Sen. Sharon Stewart-Peregoy (D)
Sen. Jonathan Windy Boy (D)

Members Absent: None

Staff Present: Linda Keim, Committee Secretary
Pat Murdo, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing & Date Posted: HB 378, HB 542, HB 567, 3/11/2009

Executive Action: HB 195, HB 291, HB 354, HB 357, HB
386, HB 530

0:01:06___Chairman Balyeat

EXECUTIVE ACTION ON HB 195

Note: A motion that HB 195 BE CONCURRED IN was already on the table from 3/13/09.

Discussion:

00:01:22 Chairman Balyeat

00:01:26 Pat Murdo

00:01:39 **Motion/Vote:** Sen. Keane moved to reconsider the action adopting a previous amendment. Motion carried unanimously 6-0 by voice vote of those present.

Note: Amendments have been put into Exhibit 1 (see below). Vote was not necessary. Discussion ensued on Exhibit 1.

00:02:06 Chairman Balyeat withdrew the Motion.

00:02:49 Chairman Balyeat

EXHIBIT(bus60a01)

Discussion:

00:03:04 Pat Murdo

00:05:07 Chairman Balyeat

00:06:02 Sen. Steinbeisser

00:06:34 Pat Murdo

00:06:56 Chairman Balyeat

00:08:34 Pat Murdo

00:11:13 Chairman Balyeat

00:12:35 Pat Murdo

00:13:24 Chairman Balyeat

00:13:48 **Motion/Vote:** Sen. Tropila moved **TO AMEND HB 195**. Motion carried 11-0 by voice vote. Sen. Barkus, Sen. Peterson, Sen. Squires, Sen. Stewart-Peregoy, and Sen. Windy Boy voted by proxy. (Exhibit 1)

00:15:23 **Motion:** Sen. Steinbeisser moved that **HB 195 AS AMENDED BE CONCURRED IN**.

Discussion:

00:15:35 Sen. Brown

00:15:41 Pat Murdo

00:16:09 **Vote:** Motion carried unanimously 11-0 by voice vote.
Sen. Barkus, Sen. Peterson, Sen. Peterson, Sen.
Stewart-Peregoy and Sen. Windy Boy voted by proxy. Sen.
Balyeat will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 357

00:16:54 **Motion:** Sen. Keane moved that **HB 357 BE CONCURRED IN.**

Discussion:

00:17:37 Chairman Balyeat

00:17:40 Pat Murdo

00:18:00 **Vote:** Motion carried unanimously 11-0. Sen. Barkus,
Sen. Peterson, Sen. Squires, Sen. Stewart-Peregoy, and
Sen. Windy Boy voted by proxy. Sen. Jackson will carry
the bill on the Senate floor.

EXECUTIVE ACTION ON HB 354

00:18:54 **Motion:** Sen. Jackson moved that **HB 354 BE CONCURRED
IN.**

Discussion:

00:19:10 Pat Murdo

00:19:30 **Motion:** Sen. Brown moved that **HB 354 BE AMENDED.**
Motion carried unanimously 11-0 by voice vote. Sen.
Barkus, Sen. Peterson, Sen. Squires, Sen. Stewart-
Peregoy, and Sen. Windy Boy voted by proxy.

EXHIBIT (bus60a02)

00:20:29 **Motion:** Sen. Jackson moved that **HB 354 AS AMENDED BE
CONCURRED IN.**

Discussion:

00:21:01 Pat Murdo

00:21:35 **Vote:** Motion carried unanimously 11-0 by voice vote. Sen. Barkus, Sen. Peterson, Sen Squires, Sen. Stewart-Peregoy, and Sen. Windy Boy voted by proxy. Sen. Kelly Gebhardt will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 386

00:22:17 **Motion:** Sen. Keane moved that **HB 386 BE CONCURRED IN. EXHIBIT (bus60a03)**

Discussion:

00:22:47 Pat Murdo
00:23:56 Chairman Balyeat
00:24:01 Pat Murdo
00:25:25 Sen. Brown
00:25:29 Pat Murdo
00:25:38 Chairman Balyeat
00:26:13 Pat Murdo
00:28:17 Chairman Balyeat
00:28:34 Sen. Keane

00:29:03 **Motion/Vote:** Sen. Brown moved **TO AMEND HB 386**. Motion carried unanimously 11-0 by voice vote. Sen. Barkus, Sen. Peterson, Sen. Squires, Sen. Stewart-Peregoy and Sen. Windy Boy voted by proxy.
EXHIBIT (bus60a04)

00:29:40 **Motion/Vote:** Sen. Keane moved that **HB 386 AS AMENDED BE CONCURRED IN**. Motion carried unanimously 11-0 by voice vote. Sen. Barkus, Sen. Peterson, Sen. Peterson, Sen. Stewart-Peregoy, and Sen. Windy Boy voted by proxy. Sen. Steinbeisser will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 291

00:31:17 **Motion:** Sen. Jackson moved that **HB 291 BE CONCURRED IN. EXHIBIT (bus60a05)**

Discussion:

00:31:52 Pat Murdo
00:32:16 Chairman Balyeat
00:34:55 Pat Murdo
00:36:00 Sen. Tropila
00:36:07 Pat Murdo

00:36:49 Sen. Keane
00:37:04 Pat Murdo
00:37:15 Chairman Balyeat
00:38:23 Sen. Keane
00:38:32 Sen. Brown

00:39:00 **Motion/Vote:** Sen. Keane moved **TO AMEND HB 291**. Motion carried 9-2 by voice vote. Sen. Brown and Sen. Squires voted no. Sen. Barkus, Sen. Peterson, Sen. Stewart-Peregoy, Sen. Squires, and Sen. Windy Boy voted by proxy.

EXHIBIT (bus60a06)

00:40:09 **Motion/Vote:** Sen. Keane moved that **HB 291 AS AMENDED BE CONCURRED IN**. Motion carried 8-3 by voice vote. Sen. Barkus, Sen. Brown, and Sen. Squires voted no. Sen. Barkus, Sen. Peterson, Sen. Stewart-Peregoy and Sen. Squires, and Sen. Windy Boy voted by proxy. Sen. Keane will carry the bill on the Senate floor.

EXECUTIVE ACTION ON HB 530

00:45:54 **Motion:** Sen. Steinbeisser moved that **HB 530 BE CONCURRED IN**.

Discussion:

00:46:31 Chairman Balyeat
00:47:46 Sen. Keane
00:47:59 Sen. Brown
00:49:08 Sen. Keane

00:49:32 **Vote:** Motion carried unanimously 11-0 by voice vote. Sen. Barkus, Sen. Peterson, Sen. Squires, Sen. Stewart-Peregoy and Sen. Windy Boy voted by proxy. Sen. Balyeat will carry the bill on the Senate floor.

Discussion on HB 286:

00:51:00 Pat Murdo
00:52:09 Sen. Keane
00:52:18 Chairman Balyeat

Discussion on HB 390:

00:54:57 Pat Murdo
00:57:29 Sen. Keane
00:57:33 Chairman Balyeat

Discussion on HB 331:

00:59:04 Pat Murdo

EXHIBIT (bus60a07)

01:00:17 Chairman Balyeat

01:00:54 Sen. Tropila

01:02:21 Recess

01:26:51 Resume

HEARING ON HB 542

Opening Statement by Sponsor:

01:27:18 Rep. Gordon Vance (R), HD 67, opened the hearing on HB 542, Revise motorsports manufacturers unfair trade practices laws.

Proponents' Testimony:

01:29:14 Brad Griffin, Montana Equipment Dealers

01:32:15 Curt Lance, Team Bozeman Motor Sports

01:39:34 Jacque VanBuren, Sports City Cyclery

01:41:39 Glenn Middlestead, Helena Cycle Center

01:42:30 Sue McCombs, Hi-Tech Motor Sports, Billings

01:45:12 Cory Swanson, Citizens for Balanced Use

01:47:00 Rep. Lou Jones, HD 27, Dealer, Pure Bliss Cycles

01:52:53 Vanessa Clark, Montana Snowmobile Association

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

01:54:13 Chairman Balyeat

01:54:39 Brad Griffin

01:54:57 Chairman Balyeat

01:56:44 Curt Lance

01:58:56 Pat Murdo

02:00:00 Sen. Barkus

02:02:40 Curt Lance

02:03:24 Sen. Keane

02:03:56 Sen. Jackson

02:07:14 Curt Lance

Closing by Sponsor:

02:08:30 Rep. Vance

HEARING ON HB 378

Opening Statement by Sponsor:

02:09:13 Rep. Mark Blasdel (R), HD 10, opened the hearing on HB 378, Exempt carriers for freight forwarders from workers compensation.

Proponents' Testimony:

02:10:17 Spook Stang, Executive Director, Montana Motor Carriers Association

EXHIBIT(bus60a08)

Opponents' Testimony: None

Informational Testimony:

02:14:01 Kevin Braun, Montana State Fund

02:14:14 Jerry Keck, Montana Department of Labor

Questions from Committee Members and Responses:

02:14:30 Sen. Keane

02:14:51 Spook Stang

Closing by Sponsor:

02:15:07 Rep. Blasdel

02:17:00 Recess

02:23:40 Resume

HEARING ON HB 567

Opening Statement by Sponsor:

02:23:55 Rep. Jon Sonju (R), HD 7, opened the hearing on HB 567, Revise automobile dealer franchise laws.

EXHIBIT(bus60a09)

Proponents' Testimony:

02:25:42 Bruce Spencer

02:35:33 Tim Hubbard, University Motors, Missoula

EXHIBIT (bus60a10)

02:38:03 Joe Billion, car dealer, Bozeman

02:44:42 Don Kaltschmidt, owner, Don K Chevrolet, Whitefish

02:48:49 Eric Anderson, Placer Motors, Helena

Opponents' Testimony:

02:52:04 Mona Jamison, General Motors

02:56:09 John MacDonald, Auto Alliance

Informational Testimony: None

Questions from Committee Members and Responses:

02:58:18 Sen. Barkus

02:58:22 Bruce Spencer

03:01:53 Sen. Brown

03:01:56 Bruce Spencer

03:05:24 Sen. Jackson

03:05:37 Bruce Spencer

Closing by Sponsor:

03:06:10 Rep. Sonju

03:08:00 Vice Chair Jackson

03:09:10 Pat Murdo

ADJOURNMENT

Adjournment: 11:43 A.M.

Linda Keim, Secretary

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Additional Documents:

EXHIBIT ([bus60aad.pdf](#))

Amendments to House Bill No. 195
3rd Reading Copy

For the Senate Business, Labor, and Economic Affairs Committee

Prepared by Pat Murdo
March 12, 2009 (4:58pm)

1. Page 3, line 15.

Following: "(6)"**Insert:** "(a)"

2. Page 3, line 16.

Strike: "(a)"**Insert:** "(i)"**Renumber:** subsequent subsections

3. Page 3, line 25.

Following: "11 p.m."**Insert:** "The provisions of this subsection (6)(a)(iv) and subsection (6)(b) do not apply to a restaurant for which a restaurant beer and wine license is in effect as of [the effective date of this act] or to subsequent renewals of that license by the owner as of [the effective date of this act]."

4. Page 3.

Following: line 25**Insert:** "(b) The term does not mean a fast-food restaurant that, excluding any carry-out business, serves a majority of its food and drink in throw-away containers not reused in the same restaurant."

5. Page 3, line 26.

Strike: "(i) Subject to" through "(7)(a)(ii), a"**Insert:** "A"

6. Page 3, line 27 through page 4, line 1.

Strike: "if there" on page 3, line 27 through "new" on page 4, line 1**Insert:** "only after 1 year of use by the original"

7. Page 5, line 12.

Strike: "Any"**Insert:** "A preference must be given to an"**Following:** "who"**Insert:** "does not yet have in any quota area a restaurant beer and wine license or a retail beer license and who"

Strike: "in a quota area, AS PRESCRIBED IN 16-4-105,"

Insert: "that is in the quota area described in subsection (8) in which the license has become available and "

8. Page 5, line 13 through line 14.

Following: "application"

Strike: "must be given a" on line 13 through "preference" on line 14

9. Page 5, line 15.

Strike: "for a newly available" through "license"

10. Page 5.

Following: line 22

Insert: "(d) If a successful lottery applicant does not use a license within 1 year of notification by the department of license eligibility, the applicant shall forfeit the license. The department shall refund any fees paid except the application fee and offer the license to the next eligible ranked applicant in the lottery."

11. Page 6.

Following: line 15

Insert: "NEW SECTION. Section 2. {standard} Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act]."

Renumber: subsequent sections

- END -

HOUSE BILL NO. 195
INTRODUCED BY R. HAMILTON

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATED TO THE QUALIFICATIONS AND CONDITIONS FOR OBTAINING A RESTAURANT BEER AND WINE LICENSE; CLARIFYING THE DEFINITION OF A FULL-SERVICE RESTAURANT; ELIMINATING THE REQUIREMENT THAT AN UNSUCCESSFUL LOTTERY APPLICANT BE GIVEN A PREFERENCE IN FUTURE LOTTERIES; AMENDING SECTION 16-4-420, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 16-4-420, MCA, is amended to read:

"16-4-420. Restaurant beer and wine license. (1) The department shall issue a restaurant beer and wine license to an applicant whenever the department determines that the applicant, in addition to satisfying the requirements of this section, meets the following qualifications and conditions:

- (a) ~~in the case of an individual applicant:~~
 - ~~—(i) the applicant's past record and present status as a purveyor of alcoholic beverages and as a business person and citizen demonstrate that the applicant is likely to operate the establishment in compliance with all applicable laws of the state and local governments; and~~
 - ~~—(ii) the applicant is not under 19 years of age;~~
- (b) ~~in the case of a corporate applicant:~~
 - ~~—(i) in the case of a corporation listed on a national stock exchange, the corporate officers and the board of directors must meet the requirements of subsection (1)(a);~~
 - ~~—(ii) in the case of a corporation not listed on a national stock exchange, each owner of 10% or more of the outstanding stock must meet the requirements for an individual listed in subsection (1)(a); and~~
 - ~~—(iii) the corporation is authorized to do business in Montana;~~
- (c) ~~in the case of any other business entity, including but not limited to partnerships, including limited liability partnerships, limited partnerships, and limited liability companies, but not including any form of a trust:~~
- ~~—(i) if the applicant consists of more than one individual, all individuals must meet the requirements of subsection (1)(a); and~~
- ~~—(ii) if the applicant consists of more than one corporation, all corporations listed on a national stock exchange must meet the requirements of subsection (1)(b)(i) and corporations not listed on a national stock exchange must meet the requirements of subsection (1)(b)(ii); the applicant complies with the licensing criteria provided in 16-4-401 FOR AN ON-PREMISES CONSUMPTION LICENSE;~~

~~(d)(b)~~ the applicant operates a restaurant at the location where the restaurant beer and wine license will be used or satisfies the department that:

- (i) the applicant intends to open a restaurant that will meet the requirements of subsection (6) and intends to operate the restaurant so that at least 65% of the restaurant's gross income during its first year of operation is expected to be the result of the sale of food;
- (ii) the restaurant beer and wine license will be used in conjunction with that restaurant, that the restaurant will serve beer and wine only to a patron who orders food, and that beer and wine purchases will be stated on the food bill; and
- (iii) the restaurant will serve beer and wine from a service bar, as service bar is defined by the department by rule;
- ~~(e)(c)~~ the applicant understands and acknowledges in writing on the application that this license prohibits the applicant from being licensed to conduct any gaming or gambling activity or operate any gambling machines and that if any gaming or gambling activity or machine exists at the location where the restaurant beer and wine license will be used, the activity must be discontinued or the machines must be removed before the restaurant beer and wine license takes effect; and
- ~~(f)(d)~~ the applicant states the planned seating capacity of the restaurant, if it is to be built, or the current seating capacity if the restaurant is operating.

(2) (a) A restaurant that has an existing retail license for the sale of beer, wine, or any other alcoholic beverage may not be considered for a restaurant beer and wine license at the same location.

(b) (i) An on-premises retail licensee who sells the licensee's existing retail license may not apply for a license under this section for a period of 1 year from the date that license is transferred to a new purchaser.

(ii) A person, including an individual, with an ownership interest in an existing on-premises retail license that is being transferred to a new purchaser may not attain an ownership interest in a license applied for under this section for a period of 1 year from the date that the existing on-premises retail license is transferred to a new purchaser.

(3) A completed application for a license under this section and the appropriate application fee, as provided in subsection (11), must be submitted to the department. The department shall investigate the items relating to the application as described in subsections (3)(a) through (3)(d). Based on the results of the investigation and the exercise of its sound discretion, the department shall determine whether:

- (a) the applicant is qualified to receive a license;
- (b) the applicant's premises are suitable for the carrying on of the business;
- (c) the requirements of this code and the rules promulgated by the department are complied with; and

(d) the seating capacity stated on the application is correct.

(4) An application for a beer and wine license submitted under this section is subject to the provisions of 16-4-203, 16-4-207, and 16-4-405.

(5) If a premises proposed for licensing under this section is a new or remodeled structure, then the department may issue a conditional license prior to completion of the premises based on reasonable evidence, including a statement from the applicant's architect or contractor confirming that the seating capacity stated on the application is correct, that the premises will be suitable for the carrying on of business as a bona fide restaurant, as defined in subsection (6).

(6) (a) For purposes of this section, "restaurant" means a public eating place:

~~(a) (i) where individually priced meals are prepared and served for on-premises consumption;~~

~~(b) (ii) At where at least 65% of the restaurant's annual gross income from the operation must be from the sale of food and not from the sale of alcoholic beverages. Each year after a license is issued, the applicant shall file with the department a statement, in a form approved by the department, attesting that at least 65% of the gross income of the restaurant during the prior year resulted from the sale of food.~~

~~(c) (iii) The restaurant must have that has a dining room, a kitchen, and the number and kinds of employees necessary for the preparation, cooking, and serving of meals in order to satisfy the department that the space is intended for use as a full-service restaurant; and~~

~~(d) (iv) A full-service restaurant is a restaurant that provides that serves an evening dinner meal at least 4 days a week for at least 2 hours a day between the hours of 5 p.m. and 11 p.m. THE PROVISIONS OF THIS SUBSECTION (6)(iv) AND SUBSECTION (6)(B) DO NOT APPLY TO A RESTAURANT FOR WHICH A RESTAURANT BEER AND WINE LICENSE IS IN EFFECT AS OF [THE EFFECTIVE DATE OF THIS ACT] OR TO SUBSEQUENT RENEWALS OF THAT LICENSE BY THE OWNER AS OF [THE EFFECTIVE DATE OF THIS ACT].~~

~~(b) The term does not mean a fast-food restaurant that, EXCLUDING ANY CARRY-OUT BUSINESS, serves a majority of its food and drink in throw-away containers not reused in the same restaurant.~~

~~(7) (a) (i) Subject to the conditions of subsection (7)(a)(ii), a A restaurant beer and wine license may be transferred, upon approval by the department, from the original applicant to a new owner of the restaurant if there is no change of location, and the original owner may transfer location after the license is issued by the department to a new location, upon approval by the department.~~

~~(ii) A new owner may not transfer the license to a new location for a period of 1 year following the transfer of the license to the new ONLY AFTER 1 YEAR OF USE BY THE ORIGINAL owner.~~

(b) A license issued under this section may be jointly owned, and the license may pass to the surviving joint tenant upon the death of the other tenant. However, the license may not be transferred to any other person or entity by operation of the laws of inheritance or succession or any other laws allowing the transfer of property upon the death of the owner in this state or in another state.

(c) An estate may, upon the sale of a restaurant that is property of the estate and with the approval of the department, transfer a restaurant beer and wine license to a new owner.

(8) (a) The department shall issue a restaurant beer and wine license to a qualified applicant:

(i) except as provided in subsection (8)(c), for a restaurant located in a quota area with a population of 5,000 persons or fewer, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(ii) for a restaurant located in a quota area with a population of 5,001 to 20,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 160% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iii) for a restaurant located in a quota area with a population of 20,001 to 60,000 persons, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 100% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105;

(iv) for a restaurant located in a quota area with a population of 60,001 persons or more, as the quota area population is determined in 16-4-105, if the number of restaurant beer and wine licenses issued in that quota area is equal to or less than 80% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105; and

(v) for a restaurant located in a quota area that is also a resort community, as the resort community is designated by the department of commerce under 7-6-1501(5), if the number of restaurant beer and wine licenses issued in the quota area that is also a resort community is equal to or less than 200% of the number of beer licenses that may be issued in that quota area pursuant to 16-4-105.

(b) In determining the number of restaurant beer and wine licenses that may be issued under this subsection (8) based on the percentage amounts described in subsections (8)(a)(i) through (8)(a)(v), the department shall round to the nearer whole number.

(c) If the department has issued the number of restaurant beer and wine licenses authorized for a quota area under subsection (8)(a) (i) , there must be a one-time adjustment of four additional licenses for that quota area.